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FACSIMILE TRANSMISSIONTO: UNITED STATES PATENT AND TRADEMARK OFFICEFACSIMILE #: (703) 305 9731No. Pages (Including this page) 4 FAX Opr: B. SiritzkyIF YOU DO NOT RECEIVE CLEARLY ALL PAGES, PLEASE CONTACT US IMMEDIATELYBy Telephone AT: (202)8613702 (local)
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In re PATENT APPLICATION ofInventor(s) Farber et alAppln. No. 09/612,598Group Art Unit: 2756Examiner: Almari ROMEROseries code ↑ serial no.Filed: July 7, 2000Atty. Dkt. PM 270531

M#

TITLE: Optimized Network Resource
LocationDate: November 7, 2000Name or type of signed paper being transmitted:
Petition To Make SpecialMESSAGE:

Attention Examiner ROMERO.

Please give to Examiner ROMERO URGENTLY!!!

(ATTN: Atty/Sec.: Transmit only one paper herewith. For papers not acceptable by fax, see back side or LAN
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and Trademark Office on the date shown below.Name Brian Siritzky Sig. [Signature] Date November 7, 200018404/0270531

C# / M#

APPLICATION of FARBER et al. - Appln. No. 09/612,598

The Request complied with 37 C.F.R. § 1.607. In the Request applicant copied claims (including all of the independent claims) from the '703 Patent into the present application [37 C.F.R. § 1.607(4)] and showed support for the copied claims in the present application.

"When an applicant seeks an interference with a patent, examination of the application, . . . shall be conducted with special dispatch within the Patent and Trademark Office." 37 CFR 1.607(b), emphasis added. *MPEP 2307*.

The MPEP lists special cases which should be "advanced out of turn for examination." *MPEP 708.01 List of Special Cases*. This application qualifies under paragraph (F) of the List of Special Cases¹ as an application which will be placed in interference with an unexpired patent.

ONGOING LITIGATION RELATING TO THE '703 PATENT

Applicant further advises the Commissioner that the alleged owner and the alleged exclusive licensee of the Leighton '703 Patent have brought suit in the District Court in Massachusetts against Digital Island, the owner of the present application, for alleged infringement of the '703 Patent. In view of the ongoing litigation relating to the '703 Patent, the applicant would like to resolve the issue of ownership of the invention with the utmost haste.

THIS APPLICATION SHOULD BE ADVANCED OUT OF TURN FOR EXAMINATION.

In view of the above, Applicant respectfully requests advancement of examination of this application and official notice to that effect.

¹ "The following is a list of special cases (those which are advanced out of turn for examination):

(f) Applications which appear to interfere . . . or which will be placed in interference with an unexpired patent or patents (37 CFR 1.201)." *MPEP 708.01 Pg. 700-65, col. 2*.